

LAKE COUNTY BOARD of ADJUSTMENT
Dec. 12, 2012
Lake County Courthouse Large Conference Room (Rm 317)
Meeting Minutes

MEMBERS PRESENT: Clarence Brazil, Sue Laverty, Mike Marchetti, Tim McGinnis, Paul Grinde

STAFF PRESENT: Joel Nelson, Robert Costa, Lita Fonda

Mike Marchetti called the meeting to order at 4:02 pm

The Board considered the Sep. 12, 2012 minutes. Robert noted a misspelling of Larson as Larsen at the beginning of the 5th paragraph on pg. 2. **Motion made by Tim McGinnis, and seconded by Sue Laverty, to approve the Sept. 12, 2012 meeting minutes as revised. Motion carried, 4 in favor (Clarence Brazil, Sue Laverty, Mike Marchetti, Tim McGinnis) and 1 abstention (Paul Grinde).**

The Board considered the Nov.14, 2012 minutes. Lita noted that she had intended to delete the partial sentence at the end of the paragraph on pg. 1 about the minutes. Robert noted that the 4th word on pg. 4 should be 'this' instead of 'his'. **Motion made by Tim McGinnis, and seconded by Mike Marchetti, to approve the Nov. 14, 2012 meeting minutes as revised. Motion carried, 3 in favor (Mike Marchetti, Tim McGinnis, Paul Grinde) and 2 abstained (Sue Laverty, Clarence Brazil).**

FLATHEAD LAKE UNITED METHODIST CAMP VARIANCES

Robert Costa introduced Dan Leatzow (of RLK Hydro, Inc), Karen Davidson (Camp Manager) and Rick Trembath (Board of Trustees) representing the camp, and he presented the staff report. He described each of 4 public comments received after the staff report was completed and made sure the comment copies had been distributed. Each of the letters was in opposition and gave concerns. (See attachments to minutes in the Dec. 2012 meeting file for staff report and public comments.)

Tim asked how condition #2 fit in. Robert turned to #5 on pg. 16 of the staff analysis regarding water supply, wastewater treatment and violations. According to Environmental Health Dept, providing water supply and wastewater treatment connections to the proposed bathhouse addition would require contemplation as part of this [MT Department of Environmental Quality and/or Environmental Health](#) review. At this time, Environmental Health hadn't approved issuance of a zoning conformance permit, so that's why that condition was included. Tim asked if the zoning conformance was needed before the variance was allowed. Robert said no. The Board was reviewing the variance request. There was also an application for a zoning conformance permit, which could not be issued unless the variance was granted.

Dan Leatzow of RLK Hydro spoke on behalf of the applicant. They were working with the camp to resolve issues that had recently come to light with both Lake County and the

MT Dept. of Environmental Quality (DEQ). The camp now recognized rules and regulations of which they were previously not aware. They'd been working diligently to bring the camp into compliance with the zoning and permitting process, as well as the cease and desist orders, for both maintaining the camp and improving the camp to provide services to the youth.

With the exception of the bathhouse addition, the other 3 variances in front of the Board didn't impact the water and wastewater systems. The bathhouse was a remodel of an existing structure. At the direction of Lake County Health, they were remodeling to improve sanitation for camp users and also taking steps to provide facilities that were compliant with the American Disabilities Act. They had a plan that would allow the camp to move forward with some of their near-term needs within the rules and regulations, so they would be ready to operate next spring. Application to resolve the issue surrounding zoning such that the camp would be a recognized classification within the Upper West Shore Zoning District would happen on the heels of these variance requests. They would also work with Lake County Environmental Health and MT DEQ to ensure that the public water system and the wastewater system were compliant and appropriate for the level of use. He thought they were finding a natural fit and way to move forward. They'd worked with the planners for a couple of months to make sure they were in line and in step with current rules and regulations. They were diligently working towards compliance, and this was the first step.

Rick Trembath spoke on behalf of the Trustees of the Board [of the camp]. He was the Facilities Chair. These projects were a result of an ongoing review of what the camp was about and where they projected to go and what their needs were. He had been a volunteer board member for 6 years. They were a nonprofit. There was no intent to make money for those running the camp; money was to run the camp. They were low income and didn't want to charge the kids a lot to come to camp. They worked a lot with volunteer labor and help, thus some of the ensuing problems. He was willing to take primary blame for a lot of what had happened. No intent for harm was intended. They had an opportunity with a major grant last year in dropping the overhead power lines to underground, which was safer. This also gave an opportunity to bury antiquated water lines, which were steel pipe, just subsurface, 4 inches, to a better system. The opportunity came to expand the public water system, and it was his fault to expand the public water system without the proper clearance.

He addressed the RV's. They passed a resolution at the last trustee's meeting to not make an RV park. The intent was not to go commercial with RV facilities. There was a subset of the Methodist church that was RV-based who volunteered to come in the spring and fall to do work projects at the camp. That was their intent for the RV sites. It would not be used at all during the summer months to expand use. They read the regulations for the RV park. The previous camp manager suggested that they didn't fall into the definition for commercial RV park. They were going to try to resolve that. The intent was not to increase RV sites other than to help with maintenance.

Mike asked about change of use. This was a church camp for youth currently. With the activities going on, was there an intended change of use where they would not be a retreat center or where they would do other activities? Rick said their intent was to increase camp use in the shoulder season (spring and fall) such that they could afford a full-time manager to run the summer camp program more efficiently. Prior to about a dozen years ago, there was no long-term manager staying at the camp. The intent was to increase use compatible with the purposes and objectives of the camp that would allow them to have a manager position employed for the camp. The types of use for spring and fall fell into the guidelines of religious and educational and so forth. There was no commercial. They were trying to provide a facility, not make profits.

Joel asked how increased use during the shoulder season would add to the ability to hire a full-time camp manager. Rick answered that she would be needed to facilitate the use, so some of her wages would come out of those camps. The more continuous year-round use, the more there was justification for a manager. It didn't make sense for 3 months of activity and 9 months of no activity. Robert asked how the requests being considered today would increase or assist the ability to run in the shoulder season. Rick said they helped with the total efficiency of the camp, not necessarily the shoulder season. The pavilion was a concept by the Helena Methodist Church, who wanted a little site to be able to do a gathering and picnic thing. The maintenance shed would help protect the equipment by getting it out of the weather. The office was an addition to the store, not an expansion of the office. Right now, Karen's office was in her bedroom. [The office addition] was a 14-foot by 16-foot simple office with no water. The bathhouse was an expansion for handicap accessibility and to be more efficient.

Dan L explained that with respect to the analysis of the wastewater and public water supplies, the results demonstrated that the systems in place were adequate to provide water and address the wastewater needs of the camp. The wastewater system was permitted in 1993. The water system hadn't been completely reviewed because of its age. If there was a situation where the current systems were inadequate to accommodate the needs of the camp, there would be adjustments in one of two ways. Either certain functions would be removed, which would be downsizing. For instance some of the RV sites might be removed as a potential way. There was also the possibility for expansion, in terms of adding additional groundwater wells to provide additional source capacity. If necessary, a potential expansion of the wastewater treatment system could be considered. His point was that those activities must be done according to state law and required stamping by a licensed engineer. With those systems and the potential impact, there were severe penalties if the camp didn't comply with that. From here on, the camp would be within the letter of the law.

Public comment opened:

Allen Clark: He lived in the vicinity of the camp for 20 years, with 3 homes and approximately 15 lots within about 450 feet of the church camp. The church camp had a large rental program that hadn't been mentioned. He didn't see very many youth camps. He looked at their website camp rental program. Rental was available by the night, by the week, by the cabin, by the whole camp, by the facility (with food services and

cafeteria). It had the capacity to sleep 180 people per evening. He had a question on sanitation regarding that. They rented the camp for weddings, family reunions and private events. That was easy to note because generally there were cardboard signs from the highway to the camp when those were taking place. The Dec. newsletter for the camp had a calendar lined out for Feb to Nov, so it wasn't a 3-month season. This didn't include weddings and private events. He saw this as working towards a commercial view. He and the camp had been pretty good neighbors. He had volunteered help, rented cabins and had birthday parties for his daughters. He thought the camp had moved in an entirely different direction since the zoning had gone into place for the Upper West Shore area. At that time it did receive the youth camps for the different churches and parishes in MT. This changed. He referred to an item in the newsletter regarding renting the facility to ski at Blacktail Mountain. He thought it was a lot larger enterprise going on there than they were indicating. One of the major problems over the last 20 years was that the traffic was huge and the road was unmaintained. It was not actually a Methodist church camp road. It was an easement through 3 other parcels. At this time, he hadn't been able to get a record of that easement and for what that easement stated that they were allowed to use that road. He had an issue that no one who had easements on their properties leading to the church camp properties were notified of this meeting. He hadn't been notified. The Planning Dept explained to him that the way the law read, only the properties that shared a boundary with the church camp needed to be notified by mail. The rest was just in the Leader public notices. This time of year with holidays and winter, most of the people were 2nd homeowners or vacationers in the summer. He was shown the notification letter last Thursday. He spoke with Robert after that to get a better handle on things and to educate himself. He was surprised to see the RV sites. They didn't exist previously. Robert told him there was a cease and desist order on those. He forgot to ask if there was a permitted use for the 2nd bathhouse that was built 2 or 3 years ago.

Robert: Without accessing records, he couldn't comment on that. He wasn't sure.

Allen C: He felt this wasn't a permitted building. They were asking to put a 2nd story on that building at this time. Wastewater and traffic were both important to him. He didn't think the church camp had adequately reviewed those. There were too many issues out there regarding cease and desist order, the lack of subdivision review with a zoning amendment, nonconformity issues and sanitation issues. He and his neighbors didn't feel this was a good time for variances. The big picture needed to be known here. The newsletter had paragraphs stating that as soon as this meeting was over, they would be working on these variances and requests and that they would move forward with an application for a subdivision review to try to get this to be a permitted use in the area. It was a small rural residential area, and an older resort residential area. They felt it wasn't a time for variances to be granted. Could this be postponed until some of these issues were resolved? The church camp was by far the largest impact in the neighborhood. As neighbors, they would like to know the full status of what the camp's intentions were. He asked the Board to review the websites for the group [inaudible].

Robert Moore: He lived there for 30 + years. The Methodist camp had been a good neighbor. Last summer he and his wife noticed the motor homes going in. Traffic was getting really heavy. He lived down below the camp. Sometimes in the summer he couldn't open his windows, because the dust off of the dirt road was like a fog. There were 10 [landowners] in the area that used lake water because they didn't have enough land to have wells. They never had problems before. Now they had purification systems because of chloroform showing up in the water. Where did it come from? He couldn't blame strictly from the camp, but who knew? It happened in the last few years. 180 people could go in the camp? That was way too many already. They had RV sites? Now they could have winter camp, summer camp, camps all the time? He thought that wasn't right. It should be looked into pretty seriously. The neighbors who were there year-round were affected with this septic. The camp did a really good job with the new electrical thing. That improved the camp quite a bit. Who would monitor the RV sites and so forth? He said Lake County said they didn't monitor anything. The camp would have to do something about the road, but it wasn't their road. They would have to pave it. He was tired of sucking up the dust. He commented that people drove way too fast, but people from the city drove that way and didn't care.

Bill Carpenter: He asked how many people the wastewater treatment was now set up to handle.

Mike M: He thought it was a DEQ question/issue.

Robert C: He didn't know.

Tim M: He commented that it was out of the scope of the Board of Adjustment. It would be taken up at DEQ, and they were the ones who reviewed the standards. The Board was looking at the variances here. They didn't deal with the wastewater treatment.

Mike M: He added the Board didn't have the legal authority. He checked with the Board for questions so far.

Karen Davidson: She had been the camp manager since June. She was concerned that there was mention of 2 cabins, when actually there were 12 cabins to accommodate the 180 kids. She looked forward to making things pleasant with both Lake County and the camp's neighbors.

Sue checked that there were other church camps in the zoning district that were permitted, although not in this subdistrict. Robert confirmed that there were other camps. They were allowed as a conditional use per the regulations. Sue confirmed with Robert that zoning regulations were updated in 2006. Sue said her concern was that this nonconforming, non-permitted black hole that the church camp was sitting in eshould be straightened out, so there could be permitting like was done in the other [subdistricts]. She encouraged that, so these types of variances wouldn't come up as nonconforming uses or expansion of nonconforming use. Under the definition of a church camp on pg.

13, it talked about uses that didn't qualify as a retreat center. She checked whether or not renting out space to the public was considered a commercial resort.

Robert pointed to the definition of commercial use on pg. 12, item f, and read that. He also read portions from the definition of retreat center on pg. 13, including examples of land uses. If you looked at a very strict construction of what a commercial use was, then he supposed they could be, but looking again at the examples of land uses that would be allowed, there would be some commercial transactions involved there.

Mike said he hadn't seen the website. Based on what he just heard about it, the renting of cabins for skiers out of Blacktail clearly jumped the boundary between seclusion and recreational facility, and now there was a cabin for commercial purposes. He wasn't at the planning meetings when the community got together and rewrote the zoning, so he didn't know how this was intended. Robert said he didn't disagree with Mike on this point. He suggested the applicants might speak more on where that came from. There were a lot of comments made for which he didn't have proof at the moment. He was aware that the camp did some renting.

Tim asked if determining whether or not this was a church camp was part of this variance request. Robert said staff interpretation was that it qualified and fell under the nonconforming use of a retreat center/ church camp, based on the definition. If the Board wanted to make a different decision, they would need to be prepared to make findings on that. Tim summarized that what they were doing was [considering] granting variances for nonconforming use, not determining whether this was a church camp. Robert confirmed.

Mike checked if there was a different venue to discuss [whether this was a retreat center/ church camp]. Robert said that might be part of an appeal, if someone wanted to pursue that. Tim checked that being a church camp would be part of the determination when the camp tried to become a conforming use in Upper West Shore zoning.

Robert said some miscommunication occurred between the Planning Dept and the camp. He had been working with the camp for 1 ½ years now. In 2011, Martha Cline, the previous camp manager, spoke with him in the summer about doing RV sites. He specifically recommended that they pursue a zone text amendment for a change in the zoning. The other option was for a variance. He made clear that he thought the better choice was to go through a zone text amendment. For some reason, that message didn't reach the people who mattered. It didn't happen and this was where the situation was.

Tim said he wasn't comfortable on making a decision as to whether this was or was not a church camp right now. Sue explained that wasn't her point. Her point was to let them know what the definition was, and they needed to mind that if that was the way they wanted to go. It could open the door to other problems down the road. They needed to know they were in a zoning district and should have it changed. She thought the definition of what a church camp was, was clear, if that was what they intended to be.

Tim gave the example of the other side, where his daughter went to a singing camp in Paradise Valley that happened to be at a church camp, who rented it out to the singers. It undoubtedly raised revenue to support the church camp.

Sue said she wasn't trying to debate that. She wanted to get [the definition] out there and get it noticed. She also tended to have a problem with expanding a nonconforming use.

Mike agreed with Robert that the best choice would have been to go for the text amendment earlier on, and change the zoning law so the camp wouldn't have been out of conformance. Now the camp had a problem. When you had a problem, the community became aware. If the Board voted to approve these, the camp would be watched. They would have to move forward and try to take care of this by expansion of the code. Sue pointed out this would give them much clearer guidelines, had they changed the zoning.

Mike opened the floor to the applicant agent for a brief opportunity to comment.

Dan L: He heard and understood the Board concerns. These variance requests were to address a near-term desire or need of the camp. He had been working with Robert and Joel to determine whether a text amendment or a map amendment to the zoning would be the most appropriate direction. That was next. They chose to go this way because a text or map amendment would take as 45 to 60 days. Their direction was to help the camp move forward and be compliant, then follow up with the long-term solution of the text or map amendment and also the review and approval of the water and septic system.

Rick Trembath: He said that in 1994 when zoning was first done on the lakeshore, there were subunits A, B and C. There was a church and retreat center for subunit A, which was the Presbyterian [inaudible]. There wasn't one for subunit B, in which the Methodist camp was. There was one for subunit C on the west side of the highway, where there had never been [a camp]. In his opinion, there was a typo, and [the camp situation] stemmed from that not getting in the right location.

Tim M: He noted a lot of time was spent with historical mistakes.

Rick T: He didn't tend to read all of the zoning as a volunteer. He explained that they let Martha (the last camp manager) go. She simplified a lot of things. As a result, [the trustee board] wasn't notified as to what happened with Robert and that request. The way Martha had read the zoning rules, as long as they weren't going commercial, it didn't apply. They didn't necessarily get the right advice.

Karen D: She showed the newsletter that was also on the website. She sent it to 1000 different churches in Montana and in the Yellowstone conference. It was only sent to churches and the Yellowstone conference.

Mike M: He asked if she wanted this submitted into the record.

Karen D: She said no. She just wanted the Board to have the newsletter, since it had been referred to. (Editor's note: See attachments to minutes in the Dec. 2012 meeting file for newsletter. Although not submitted into the record, it was handed out at the meeting and is attached as such.) Regarding the article she wrote about the ski area, she talked to Missoula Methodist church, who said they had a bunch of skiers that wanted to come up and use the facility. She told them there was only one cabin that they could use in the winter. It held 20 people. The church wanted to do that, so that [article] was targeted to a church population who had made a request of her to see if they could come up. When the newsletter was distributed to everyone in the Yellowstone Conference Church area, it was targeted to church people, not to the neighbors.

Allen C: He appreciated Rick taking responsibility for [both] the RV sites and not acknowledging the zoning rules. He pointed out there were 14 Board of Director members [inaudible] professionals. It wasn't just something that was overlooked by Rick or by [inaudible] camp manager. He had a question about the Planning report. If the variances were approved, was it up to the applicants to work with the people who had the easement?

Robert C: He asked what Allen was referring to.

Allen C: He was referring to the responsibility of the applicant to deal with [inaudible].

Sue L: She thought it was one of the disclaimers.

Robert C: He asked what Allen was asking.

Allen C: [Question inaudible.]

Robert C: At this point, staff weren't recommending mitigation in regards to the road for these variance request. As staff looked at variance requests, they did look at mitigation of impacts. Those mitigations had to have an essential nexus to what was proposed. Based on staff analysis, the expansions proposed were minor; they weren't going to increase traffic. He reminded that the RV sites were not being reviewed at this point. Staff weren't recommending mitigation with regards to road or easement in these variance requests. It wasn't within the government body's power to do that unless there was an essential nexus to what was being requested. They hadn't determined to see that in this case.

Public comment closed.

Tim noted the church camp had been there since 1931. [Inaudible.] What happened from here, they would see. Clarence said they weren't obligated to check on all the other circumstances. They were obligated, as a Board, to rule on the variances. They weren't supposed to determine the environmental impact or the sewer systems. Their job was to determine whether to allow them to build the things they were asking to build. Mike said he was in agreement with that. He brought up section CC of the definitions on the church

camp because it was brought to the Board's attention by the staff. He wondered why they brought it to the Board's attention. He trusted the staff analysis. He was familiar with other church camps in the area and how they operate and the activities there. From what he had heard, he didn't see that [the activities] were out of character with other church facilities in the area, even on the west lakeshore. The variances seemed to be reasonable, and one seemed to be mandatory, with ADA and fixing the bathhouse because it wasn't accessible by law. Paul agreed with Mike. The bigger issue was fixing the zoning, which the camp had to do.

Joel suggested that the Board might want to address whether to accept or reject the newsletter into the record. Mike asked if the Board felt the newsletter affected the proceedings. Sue thought it wasn't relevant. Clarence reminded that Karen specifically said no when Mike asked her if she wanted to submit the newsletter into the record. Sue added that there wasn't time to look at the newsletter.

Mike suggested that they consider each of the variances individually.

Motion made by Paul Grinde, and seconded by Tim McGinnis, to approve the variance regarding the picnic pavilion with staff recommendations and findings of fact. Motion carried, 4 in favor (Clarence Brazil, Mike Marchetti, Tim McGinnis, Paul Grinde) and 1 abstention (Sue Lavery).

Motion made by Paul Grinde, and seconded by Clarence Brazil, to approve the variance regarding the addition to the existing bathhouse with staff recommendations and findings of fact. Motion carried, 4 in favor (Clarence Brazil, Mike Marchetti, Tim McGinnis, Paul Grinde) and 1 abstention (Sue Lavery).

Motion made by Clarence Brazil, and seconded by Tim McGinnis, to approve the variance regarding the addition to the existing maintenance facility/shop with staff recommendations and conditions. Motion carried, 4 in favor (Clarence Brazil, Mike Marchetti, Tim McGinnis, Paul Grinde) and 1 abstention (Sue Lavery).

Motion made by Paul Grinde, and seconded by Clarence Brazil, to approve the variance regarding the addition to the existing camp office with staff recommendations and findings of fact. Motion carried, 4 in favor (Clarence Brazil, Mike Marchetti, Tim McGinnis, Paul Grinde) and 1 abstention (Sue Lavery).

Tim checked about the process for a zone change. Joel explained they discussed doing a map amendment to change the zoning designation. It wasn't far from another subdistrict. Dan clarified that a shift of approximately 200 yards would allow them to bring the camp into another subdistrict. Joel added that the camp talked about annexing the properties between them and the other subdistrict so [the district] would include the church camp and properties he indicated between Rollins Lakeshore Drive and This Is It. It would go for public review to the County Planning Board, who would make a recommendation to the Commissioners. There would be public notice and signs posted in the neighborhood. Tim confirmed with Joel that there was public input in that process. Joel said the zone

change would allow them to apply for conditional uses to be reviewed in front of this Board with the public. Subdivision review was required for what the camp had talked about as well. There was plenty of opportunity for public input if the camp proceeded with this proposal.

Clarence asked if church camps remained on Finley Point. There had been 3 of them a number of years ago. Joel couldn't think of one.

OTHER BUSINESS (5:08)

Robert spoke about the memorandum notice of noncompliance that was in the Board packet. This pertained to a violation in Finley Point. No action was required on this [by the Board]. The Finley Point zoning regulations required that when a notice of noncompliance was issued on a property, if the landowner did not respond within 20 days, that a complaint be sent to the Board of Adjustment. The Planning Dept was still working with the landowner to attempt to get compliance on this.

Mike adjourned the meeting at 5:10 pm.